(2025) 04 BOM CK 0229

In the Bombay High Court

Case No : Writ Petition No. 3547 Of 2024

Sagar Bhagirath Karate	APPELLANT
Vs	
Indian Oil Corporation Ltd., Through Its Selection Committee & Ors	RESPONDENT

Date of Decision : 02-04-2025

Acts Referred:

Constitution of India, 1950 — Article 226
Registration Act, 1908 — Section 17(1)(d)

Citation : (2025) 04 BOM CK 0229

Hon'ble Judges : G. S. Kulkarni, J;Advait M. Sethna, J

Bench : Division Bench

Advocate : Pritesh Burad, Disha Patil, Pritesh Burad Associates, Chirag Mody, Ashok Purohit, Vishakha Patel, Ashok Purohit & Co., Ashutosh Mishra, Rupesh Dubey, Pushkar Naik Karan Vaity

Final Decision : Dismissed

Judgement

G.S. Kulkarni, J

1. This petition under Article 226 of the Constitution of India has prayed for the following substantive reliefs:

"(a) That this Hon'ble Court be pleased to issue Writ of Mandamus or any other appropriate writ or order or direction in the nature of Mandamus, thereby quashing and setting aside the said Communication, i.e., 4th e-mail dated 02.01.2024 (Exhibit H) and Letter dated 08.02.2024 (Exhibit K).

(b) That this Hon'ble Court be pleased to issue Writ of Mandamus or any other appropriate writ or order or direction in the nature of Mandamus, thereby directing the respondents to consider the said application bearing no. IOC16953799891734 (Exhibit B) for selection as eligible in Group II and reinstate the claim on the said Application for award of RO Dealership of IOCL under Class II Group without further delay."

2. On 28 June, 2023, respondent no. 1-Indian Oil Corporation Ltd. (for short "IOCL") published an advertisement along with a brochure for selection of dealers for Regular & Rural Retail Outlets through bidding process. In pursuance of the said advertisement, the petitioner on 22 September, 2023 submitted an online application. The petitioner was a Group II applicant. The application of the petitioner was to be submitted in the prescribed form along with all the relevant documents. One of the document was a notarized lease deed which was submitted by the petitioner along with the application.

3. At this juncture, we may note that there are several terms and conditions which are required to be fulfilled in making the application and more particularly in respect of the land which is being offered for setting up of a retail outlet being applied for. One of such essential requirement is of the applicant possessing a registered sale deed or gift deed in respect of the land and if it is a leasehold land, a registered lease deed. The conditions in that regard are found in Clause 4(vi), providing for the "Eligibility Criteria" which reads thus:

"4. ELIGIBILITY CRITERIA FOR INDIVIDUAL APPLICANTS –

PROPRIETORSHIP / PARTNERSHIP

Common Eligibility Criteria for all Categories applying as Individual (as on date of application unless mentioned otherwise)

.....

......

(vi) Land (Applicable to all categories):

The applicants would be classified into three groups as mentioned below based on the land offered or land not offered by them in the application form: -

Group–1: Applicants having suitable piece of land in the advertised location/area either by way of ownership / long term lease for a period of minimum 19 years 11 months or as advertised by the OMC.

Group - 2: Applicants having Firm Offer for a suitable piece of land for purchase or long-term lease for a period of minimum 19 years 11 months or as advertised by the OMC.

Group-3: Applicants who have not offered land in the application. Only applicable for locations advertised under SC/ST category.

Applications under Group - 3 would be processed/advised to offer land (Annexure - D) only in case no eligible applicant is found or no applicant get selected under Group - 1 & Group – 2.

In case land offered by all the applicants under Group - 1 & Group - 2 is found not suitable/not meeting requirements, then these applicant/s under Group - 1 & Group - 2 along with applicants under Group - 3 (who did not offer land along with application) would be advised by the OMCs to provide suitable land in the advertised location/stretch, within a period of 90 days from the date of issuance of intimation letter to them through SMS/e-mail. In case the applicant fails to provide suitable land within the prescribed period, or the land provided is found not meeting the laid down criteria, the application would be rejected.

The other conditions with respect to offering of land are as under: -

a) The land should be available with the applicant as on the date of application and should have minimum lease of 19 years and 11 months (as advertised by respective oil company) from the date or after the date of advertisement but not later than the date of application. If the offered land is on Long-term lease and there are multiple owners, then lease deed should be executed by all co-owners of the offered plot. Incase lease deed is not executed by all co-owners; such lease deed shall be treated as invalid.

b) If the offered land is on long term lease, then the Lease agreement should have a provision to sub-lease the offered land wherever the locations are advertised under Corpus Fund Scheme (CFS) and other Corporation Owned Sites ("A"/ "CC" sites). In case it is observed that the lease agreement for the land offered by the provisionally selected candidate does not have a provision to sub-lease the land, in such cases the provisionally selected candidate would be provided 21 days' time from the date of intimation through SMS/e-mail to make suitable amendment / addendum to the lease agreement and submit the same to the concerned OMC.

c) For Dealer owned sites ("B"/ "DC" sites), the applicant should ensure that the land arranged by the applicant is either registered in the applicant's name or leased in favour of the applicant for a minimum period as advertised by respective oil company, as per terms of Letter of Intent (LOI). Investment will be made by the OMC towards development of facilities in the offered land only after compliance of the aforementioned, by the applicant. In case land is obtained on long term lease by the applicant, the lease should be valid till a period of 19 years 11 months from the date or after the date of advertisement but not later than the date of application.

d) For Corporation owned sites ("A"/ "CC"/ "CFS" sites), the applicant should ensure that the land offered by the applicant is registered in the name of the OMC either through Long Term Lease or through outright sale before any investment is made by the OMC towards development of facilities in the offered land. In case of long term lease, the lease should be valid till a period of 19 years 11 months from the date or after the date of advertisement but not later than the date of application.

e) As and when advised by the OMC, the provisionally selected candidate should upload a copy of Khasra / Khatouni or any other equivalent revenue document or certificate obtained from revenue official confirming the status of ownership of the land, as on the date of application.

As and when advised by the OMC, the provisionally selected candidate will also be required to upload a site map / layout sketch of the offered plot as per Appendix – V.

f) In addition to above, as and when advised by the OMC, provisionally selected candidate(s) under Group-1 should also upload a copy of any one of the following documents to establish ownership of land offered for the Dealership. The documents must have been executed/registered/issued on or before the date of application:

. Registered Sale deed/Registered Gift deed

. Registered Lease deed for a minimum period of 19 years and 11 months (as advertised by respective oil company).

. Any other type of ownership/transfer deed document.

. Lease agreement or firm allotment letter issued by Government/Semi Government bodies.

g) The land owned by the family member(s) will also be considered as belonging to the applicant (Group-1) subject to producing the consent letter in the form of affidavit (Appendix – III) from the concerned family member(s). Such consent letter in the form of affidavit should have been tendered by the concerned family member(s) on or before the date of application.

h) For this purpose, family members would comprise of: -

(i) Self

(ii) Spouse

(iii) Father/Mother including Step Father/Step Mother

(iv) Brother/Sister/Step Brother/Step Sister

(v) Son/Daughter/Step Son/Step Daughter

(vi) Son-in-law / Daughter-in-law

(vii) Parents-in-law

(viii) Grand Parents (both maternal & paternal)

i) For Group 2 applicants, the "firm offer" of land will include land offer from third party based on Agreement to purchase/long term lease (as per terms and conditions of the OMCs). Land offer letter in the form of an Affidavit (Appendix – III) tendered by the third party (landowner) on or before the date of application, should be available with the applicant along with documents mentioned in clause (e and f) above to establish the ownership of land offered for the Dealership which will have to be submitted by the applicant as and when advised by OMCs.

j) In case conveyance (sale/lease/gift) deed of the offered land has been executed by a Power of Attorney (Registered) holder and/or offer letter as per Affidavit (Appendix -III) is from Power of Attorney holder (Registered), as and when advised by the OMC, the applicant will also have to submit a copy of the POA along with documents, mentioned in clause (e and f) above. The POA (registered) shall be of a date which is on or prior to the date of execution conveyance (sale/lease/gift) deed and /or offer letter.

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....

4. It is thus clear, that if the land which is offered by an applicant is a leasehold land, necessarily the requirement was to the effect that such land was supported by a registered lease deed, which would also be in compliance of the mandate of the provisions of Section 17(1)(d) of the Registration Act, 1908. Such stipulation was intended to obviate any uncertainty in regard to a clear future and long use of the land. The reason being that the IOCL on allotment of a Retail outlet to an applicant, would make substantial investment/expenditure on the installations, in setting up a retail petroleum outlet on such land. Thus, the land offered by any applicant for a retail petroleum outlet, necessarily was required to conform to these essential conditions as provided in the brochure. It cannot be that a land which is imperiled to future disputes or which may lead the petroleum company being dragged into litigation, or which would have a threat of an eviction, jeopardising the investment made by such public sector company, could at all pass muster. Hence, certainly it would not be acceptable that the land being offered by the applicant is vulnerable to litigation and/or there is any such uncertainty, qua the land, in the allotment of a retail petroleum outlet.

5. It is such basic condition which has not been complied insofar as the petitioner's application was concerned. The petitioner was informed about this lacuna/deficiency by an email dated 18 December, 2023 addressed by the Head of Divisional Office of IOCL. The contents of the said communication are required to be noted, which reads thus:

"Ref: IOC16953799891734 Date: 18 Dec. 2023

To,

Mr. Sagar Bhagirath Karate

Address: At Shivdi Post Ugaon Tal Niphad

Dist. Nashik

State : Maharashtra

Pin Code : 422304

Subject : Application for award of RO dealership at within 6 kms. from MURBAD BUS DEPOT towards Mhasa on Karjat-Murbad Road (NH548A) District Thane, State Maharashtra under ST category Advertised on 28-Jun-2023.

Dear Sir,

Please refer to your application Ref. No. IOC16953799891734 on the subject.

You are requested to upload the following rectified/correct document(s) by 08-Jan-2024. To upload rectified/correct document(s) Click Here or login to https://www.petrolpumpdealerchayan.in/petrol-2023 so that your application for award of Retail Outlet dealership at the above location can be processed further.

1. Notarized Affidavit by the applicant as per Appendix-XA/XB (Standard Affidavit) as applicable.

2. Khasra/Khatouni or any other equivalent revenue document or certificate obtained from revenue official confirming the status of ownership of the land, as on the date of application.

3. Sketch of the offered land with dimension.

4. Appendix VI

Reason :

1. Copy of Layout/Site Map of the offered plot of land is not as per format (Appendix V) to be uploaded as per format.

2. Gut No. 238 mentioned in application and applicant has uploaded 7/12 where gut no mentioned 238/Pai to be uploaded.

3. Appendix III is not uploaded – to be uploaded.

4. Appendix XA is after date of application – the same is required to confirm trueness as on date of application – to be uploaded all the irrelevant clauses to be included and striked off.

Please note that your candidature is liable for rejection without any further notice, in case you fail to upload the above stated rectified/correct document(s) within the stipulated time.

Thanking you,

Yours faithfully,

For Indian Oil Corporation Ltd.

M K Pathak

Head of Divisional Office."

6. The aforesaid letter clearly indicates that the petitioner needed to upload correct documents for his application to be processed. The petitioner however had not uploaded Appendix III as per the requirements of the IOCL as contained in the brochure, which also contained a clear requirement in the chart as provided in the format of Appendix III, namely of the date of registration of sale

deed/gift deed/lease deed/date of mutation to be specifically incorporated. The column in Appendix III reads thus:

Name(s) of the owner of Land/ Lease Holder

Relationship with applicant

Date of registration of sale deed/gift deed/lease deed/date of mutation

Khasra/ Gut/ Survey No.

Dimensions of land

Frontage in meter

Min. Depth in meter

Area of the land (sq.m.)

1.

2.

3

(emphasis supplied)

7. Thereafter, another letter dated 2 January, 2024 was addressed by the IOCL to the petitioner. Therefore, IOCL was correct in pointing out to the petitioner that Appendix-III was not submitted by the petitioner in accordance with the requirements of the brochure/offer. This was a major lacuna in the petitioner's application.

8. The petitioner however raised a grievance before the Competent Officer of the respondent on the requirements/objections as set out in the IOCL's communication dated 18 December, 2023 and 2 January, 2024. Such representation/complaint was responded by the impugned letter dated 8 February, 2024 addressed by the Divisional Retail Sales Head, Mumbai Divisional Office, whereby the petitioner was categorically informed that the petitioner has not confirmed the status of ownership of the land, as per the requirement of Appendix III, being a mandatory term and condition of the brochure. It was also pointed out that what was submitted was a notarized lease deed, meaning thereby it was not a registered lease deed, hence, the same was not considered as valid/acceptable document and it is for such reason, the representation/ application of the petitioner was rejected. The impugned communication dated 8 February, 2024 is required to be noted, which reads thus:

"With reference to your captioned representation, we would like to clarify that we have investigated the matter and our findings are as under:

Khasara/Khatouni or any other equivalent revenue document or certificate obtained from revenue official confirming the status of ownership of the land, as on the date of application/Appendix III not submitted by you on www.petrolpumpdealerchayan.in. You have been given opportunity vide mail dated 18.12.2023 to rectify the same within dtd.08.01.2024. However, it is noticed that the rectification was not done by you within stipulated time. You have submitted notarized lease deed. The same is not considered as valid/ acceptable document. Hence your application is considered for selection along with Group 3 applicants as per guidelines."

9. On such backdrop, the petitioner's challenge is limited. Learned counsel for the petitioner submits that the impugned order is not a reasoned order. It is submitted that in fact what was relevant was that as per Clause 4(vi)(f) (supra) of the brochure, the petitioner was required to submit any one of the documents as set out in such clause. According to him, the petitioner had accordingly submitted the document of the category "Any other type of ownership/transfer deed document". On a query being made as to which document of such description was submitted by the petitioner, his reply is that the revenue extracts (7/12 extract) of the land was submitted by the petitioner. The submission outrightly needs to be rejected. It is well settled that 7/12 extract, being a revenue document, is not a document of title reflective of the ownership of the land. Also the 7/12 extract cannot have any relevance in regard to the requirement of a registered lease deed to be submitted by the applicant which was a mandatory condition to be fulfilled by the petitioner.

10. The further contentions as urged on behalf of the petitioner are quite peculiar. Learned counsel for the petitioner has submitted that this Court nonetheless needs to interfere, as the impugned order is not a reasoned order. In supporting this submission, reliance is placed on the decision of the Aurangabad Bench of Bombay High Court in Dr. (Smt.) Archana Sharad Pawar vs. The Union of India & Ors. Writ Petition No. 10148 of 2010 dated 11 October, 2011 We are not inclined to accept such submission inasmuch as from the reading of the impugned order which we have quoted hereinabove, we find that the basic necessary reasons to reject the petitioner's application are very well contained in the impugned communication and are informed to the petitioner. From a bare reading of the impugned communication, it cannot be said that the same is not a reasoned order. We may observe that the relevant reasons which go to the root of the matter, namely of the intimation of non-compliance of the terms and conditions, which disqualified the petitioner's application itself was sufficient compliance of a reasoned rejection. There cannot be any straight jacket formula for a reasoned order to be passed, as one or more reasons can be sufficient compliance of the duty to assign reasons depending on the facts of each case.

11. The next contention as urged on behalf of the petitioner is that the petitioner was never called upon by the IOCL for a registered lease deed to be furnished. This is a submission in sheer desperation. We cannot accept such contention as such submission militates against the terms and conditions of the offer/brochure as accepted by the petitioner, namely, the furnishing of a registered lease deed

was an essential part of the eligibility conditions as set out in the brochure as contained in paragraphs 4(vi)(f), as also part of Appendix III. We, therefore, reject such contention on behalf of the petitioner.

12. We are also not inclined to accept the contention on any breach of principles of natural justice for want of a hearing being accorded to the petitioner, for the reason that the petitioner has miserably failed to satisfy the test of any prejudice being caused to the petitioner. There is no ground of such nature pleaded in the petition or in the correspondence, which would make out a case of prejudice being caused to the petitioner. The principles of law in this regard are well-settled. We may usefully refer to the decision of a Division Bench of this Court, to which one of us (G.S.Kulkarni. J.) was a member, in Veena Estates Pvt. Ltd. vs. Commissioner of Income-Tax 2024 SCC OnLine Bom 77, wherein while dealing with the principles of prejudice, the Court has made the following observations:

"42. It is a settled principle of law that any breach of the principles of natural justice cannot be addressed by a straitjacket formula. Any complaint of breach of principles of natural justice would be required to be considered in the facts of the case. When the facts of the case would demonstrate it, to be an undisputed position, that no real prejudice was caused to a party aggrieved by an order, being alleged to be breach of the principles of natural justice, the court would certainly not interfere. Such complaint and/or a genuine grievance of the breach of principles of natural justice accompanied with the prejudice it would cause, is required to be made with utmost promptness. Any delay in making such complaint or raising a grievance would give rise to a position that such grievance is either not genuine or is belated and/or a technical plea being agitated. In Kanwar Natwar Singh v. Directorate of Enforcement [(2011) 330 ITR 374 (SC); (2010) 160 Comp Cas 301 (SC); (2010) 13 SCC 255.] , the Supreme Court while observing on the test of real prejudice, observed that there is no such thing as "technical infringement of natural justice",as what is necessarily to be seen is that there must have been caused some real prejudice to the complainant. It was observed that the requirements of natural justice must depend inter alia as involved in the facts and circumstances of the case and the nature of the inquiry, etc. The relevant observations of the Supreme Court are required to be noted which read thus (page 387 of 330 ITR):

"26. Even in the application of the doctrine of fair play there must be real flexibility. There must also have been caused some real prejudice to the complainant; there is no such thing as a merely technical infringement of natural justice. The requirements of natural justice must depend on the circumstances of the case, the nature of the inquiry, the rules under which the Tribunal is acting, the subject matter to be dealt with and so forth. Can the courts supplement the statutory procedures with requirements over and above those specified ? In order to ensure a fair hearing, courts can insist and require additional steps as long a such steps would not frustrate the apparent purpose of the legislation."

(emphasis supplied)

50. In a recent decision of the Supreme Court in Madhyamam Broadcasting Limited v. Union of India [2023 SCC OnLine SC 366; (2023) 3 Bom CR 685.] the law in regard to the compliance of principles of natural justice and the test of prejudice which is required to be met by a party, complaining of the breach of principles of natural justice have been reiterated. In paragraph 42 of the said decision, the court has observed that the party alleging violation of the principles of natural justice is required to prove that the administrative action has violated the principles of natural justice and such non-compliance of the requirement of natural justice has prejudiced a party. It was observed that the courts, while assessing prejudice, need to determine if compliance of the principles of natural justice, could have benefited the party in securing a just outcome. The court further observed that non-compliance of every facet and component of natural justice does not render the procedure unreasonable and the claimant must prove that the effect of non-compliance of a component of natural justice is so grave that the core of the right to a fair trial is infringed while making an argument from a component-facet perspective.

52. Thus, the principles of law as laid down by the Supreme Court are clear, that mere breach of principles of natural justice is not in itself a prejudice and in fact it is de facto prejudice which is required to be proved........”

13. In the aforesaid circumstances, we are clearly of the opinion that ex-facie the petitioner was not eligible for consideration of his application, as the petitioner had failed to comply with the mandatory requirements and most importantly the requirement in regard to the land.

14. The petition is devoid of merits. It is accordingly rejected. No costs.

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This petition also stands covered by the decision rendered in the aforesaid petition, as the petitioner is a Group-II applicant for allotment of a retail petroleum outlet who had not complied with the basic mandatory condition of furnishing the registered lease deed which was offered. Thus, for similar reasons which are set out in the aforesaid petition, this petition is also devoid of merits. It is accordingly rejected. No costs.

